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You Are Not Alone: What Law Schools Must Do to Help Law Students with Mental Health and Substance Abuse Issues

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ARTICLE

YOU ARE NOT ALONE: WHAT LAW SCHOOLS MUST DO TO HELP LAW STUDENTS WITH MENTAL HEALTH AND SUBSTANCE ABUSE ISSUES

*David A. Grenardo**

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I. INTRODUCTION

“The first sign of trouble came with his intense study of law. He ‘read hard’—day and night—terribly hard. . . .¹ At times, [he] seemed oblivious to his friends and surroundings.² ‘He became emaciated,’ . . . and his best friends were afraid that he would [. . .] make himself derange[d].”³

The young man then experienced the death of a good friend, and “his neighbors mobilized to keep him safe.”⁴ His friends felt compelled to keep watch over him because they thought he might commit suicide.⁵ “That was the time the community said he was crazy”⁶ He had another major breakdown years later.⁷ He got treatment and eventually learned to cope with his depression.⁸

What if his friends had not been there for him? What if he had not decided to address his issues directly? It is just one lawyer, right? This nation may be much different than it is today as that young man went on to become the sixteenth president of the United States. Abraham Lincoln suffered from what is known today as depression, or melancholy as they called it back then, and he talked about committing suicide.⁹

Even though it is just one person and one lawyer, that person is loved by someone (a spouse, sibling, parent, child, or friend) and deserves help. The legal profession should try to help that individual, regardless of whether the legal profession believes that individual to be bound for transcendent greatness or not. Moreover, no one absolutely knows what individuals can do or become if they overcome their obstacles.

The legal profession, including law schools, must do its part to teach law students and lawyers that they are not alone, as many of their classmates and colleagues suffer from the same problems as they do. The legal profession must be there for each other, not just to condemn or report,¹⁰ but to lift up each other. Law schools must also go above and beyond to help their law students prepare

1. JOSHUA W. SHENK, LINCOLN’S MELANCHOLY: HOW DEPRESSION CHALLENGED A PRESIDENT AND FUELED HIS GREATNESS 18 (2006).

2. *Id.*

3. *Id.*

4. *Id.* at 19.

5. *Id.*

6. *Id.*

7. *Id.* at 23.

8. *Id.*

9. *Id.* at 21.

10. MODEL RULES OF PROF’L CONDUCT r. 8.3 (AM. BAR ASS’N 2016) (requiring a lawyer to report a fellow lawyer who “has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer’s honesty, trustworthiness or fitness as a lawyer”).

for and face these serious issues.

The ABA took a major step in combating mental health and substance abuse issues in the legal profession by creating a comprehensive report that, among other things, provided numerous strategies for the various stakeholders—“judiciary, regulators, legal employers, law schools, bar associations, lawyers’ professional liability carriers, and lawyer assistance programs”—to address those issues.¹¹ A number of state bars then assembled their own task forces and groups to address substance abuse and mental health conditions in the legal profession on a state-wide level.¹² For example, Texas assembled a Roundtable on Well-Being in the Legal Profession comprised of selected leaders of each category of stakeholder, including this author,¹³ to provide its recommendations to the Supreme Court of Texas.¹⁴

Part I of this Article discusses the crisis of mental health and substance abuse issues afflicting law students and lawyers. Part II provides practical, tangible solutions for law schools and law students to address the crisis. This Article concludes with a recommendation that law schools educate and support their law students to let them know they are not alone in their mental health and substance abuse battles.

II. THE CRISIS OF MENTAL HEALTH ISSUES AND SUBSTANCE ABUSE IN THE LEGAL PROFESSION

Two watershed studies illustrate the systemic issues of

11. See BREE BUCHANAN & JAMES COYLE, Task Force Chairs, THE PATH TO LAWYER WELL-BEING: PRACTICAL RECOMMENDATIONS FOR POSITIVE CHANGE REPORT 10 (2017), <https://www.americanbar.org/content/dam/aba/images/abanews/ThePathToLawyerWellBeingReportRevFINAL.pdf>.

12. *The Path to Lawyer Well-being: Practical Recommendations for Positive Change, State Task Forces & Commissions*, LAWYER WELL-BEING (last visited Jun. 25, 2019), <http://lawyerwellbeing.net> (providing an interactive map showing various states’ task force).

13. See *id.*; see also Eric Quitugua, *Culture Shift: A Look at How Focusing on Well-Being and Self-Care Can Help Save Lives in the Legal Profession*, STATE BAR OF TEX. (July 2018), <https://www.texasbar.com/AM/Template.cfm?Section=articles&Template=/CM/HTMLDisplay.cfm&ContentID=40733> [<https://perma.cc/8FZU-QS5H>] (noting the participants included “Texas Supreme Court justices; judges; law school deans; executive directors of the State Bar of Texas, Texas Board of Law Examiners, the State Commission on Judicial Conduct, and the Texas Center for Legal Ethics; members of the Texas Access to Justice Commission; and presidents of the State Bar, the Texas Young Lawyers Association, and Texas Lawyers Concerned for Lawyers, among others”); E-mail from Bree Buchanan, Dir., Tex. Lawyers Assistance Program, to author & Tex. Roundtable Mbrs. (June 13, 2018, 16:47 CST) (listing Professor Grenardo as a member of the Law School Work Group for the Texas Roundtable on Well-Being) (on file with author).

14. See E-mail from Bree Buchanan, Former Dir., Tex. Lawyers’ Assistance Program, to author (July 10, 2019, 15:39 CST) (on file with author).

mental health and substance abuse suffered by so many members of the legal profession. In 2014, Jerome Organ, David Jaffe, and Katherine Bender conducted the Survey of Law Student Well Being (SLSWB), which constituted the first multischool study in over twenty years to address patterns of alcohol use and consumption of street drugs.¹⁵ The study also represented “the first-ever multischool study to explore prescription drug use and the mental health concerns and help-seeking attitudes of law students.”¹⁶ Fifteen law schools and 11,000 law students participated.¹⁷ The results were stunning.

On average, 53% of responding law students drank enough to get drunk at least once in the last thirty days, 43% binge-drank at least once in the prior two weeks, and 22% binge-drank two or more times in the prior two weeks.¹⁸ The following table shows those results broken down by gender and law school year.¹⁹

	Men	Women	1Ls	2Ls	3Ls
Drank enough to get drunk in prior 30 days	54%	52%	51%	53%	54%
Binge drank at least once in prior two weeks	47%	40%	40%	44%	45%
Binge drank two or more times in prior two weeks	27%	18%	18%	23%	24%

The following chart shows the problems associated with alcohol consumption.²⁰

15. Jerome M. Organ, David B. Jaffe & Katherine M. Bender, *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. LEGAL EDUC. 116, 116 (2016), <https://jle.aals.org/cgi/viewcontent.cgi?article=1370&context=home>.

16. *Id.*

17. *Id.* at 123–124.

18. *Id.* at 129. Overall, 56% of SLSWB respondents were women and 44% were men. *Id.* at 125.

19. The results in the following chart come from the SLSWB Study provided by Jerome M. Organ, David B. Jaffe & Katherine M. Bender for the American Bar Association. *Id.* at 130.

20. The edited results in the following chart come from the SLSWB Study provided by Jerome M. Organ, David B. Jaffe & Katherine M. Bender for the American Bar

Problem	% of Respondents
Vomited	37.3%
Felt that you should cut down your drinking	31.4%
Felt guilt, remorse or regret	30.2%
Missed class	19.3%
Had unplanned sex	15.9%
Drove while under the influence of alcohol	15.3%
Thought I had a problem—afraid I might be an alcoholic	13.9%
Thought about suicide	3.9%
Been taken advantage of sexually	3.1%

Problem drinking comprised only one aspect of the study, which also found the following results in a variety of areas:

- 14% of respondents admitted to using prescription drugs without a prescription in the last twelve months,²¹ and nearly one-fifth of those law students who admitted to using said they did so to prevent their classmates from possessing an “academic advantage” over them.²²
- 17% of respondents screened positive for depression,²³ and one-sixth of those students suffering from depression stated they were diagnosed with depression after starting law school.²⁴
- 37% percent of respondents screened positive for anxiety,²⁵ and approximately 30% of those students diagnosed with anxiety stated their diagnosis occurred after they began law

Association. *Id.* at 132.

21. *Id.* at 134.

22. *Id.* at 135.

23. *Id.* at 136 (using the Patient Health Questionnaire-2 (PHQ-2)).

24. *Id.* at 137.

25. *Id.*

school.²⁶

- “27% of respondents screened positive for an eating disorder (18% of male respondents and 34% of female respondents).”²⁷
- 9% of respondents indicated “in the prior year, they had engaged in self-harm, such as cutting or burning oneself[.]”²⁸
- “21% of participants reported they had seriously thought about suicide in their lifetime,” and 6% “had seriously thought about suicide in the prior twelve months[.]”²⁹

In 2016, the Hazelden Betty Ford Foundation and the ABA Commission on Lawyer Assistance Programs released the results of its study on lawyers, which provided strikingly similar results to the study on law students.³⁰ The extensive study included approximately 13,000 attorneys from nineteen states across all regions of the country, and it represented the first nationwide attempt to capture drinking and behavioral health data about the legal profession.³¹ The study revealed substantial and widespread levels of problem drinking and other behavioral health problems in the legal profession.³²

- 21% of licensed, employed attorneys qualify as problem drinkers.³³
- 28% struggle with some level of depression.³⁴
- 19% demonstrate symptoms of anxiety.³⁵
 - Younger attorneys in the first ten years of practice exhibit the highest incidence of these problems.³⁶
- When focusing solely on the volume and frequency of alcohol

26. *Id.* at 138.

27. *Id.*

28. *Id.* at 139.

29. *Id.*

30. Patrick R. Krill, Ryan Johnson, & Linda Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. 46 (2016) (concluding “[a]ttorneys experience problematic drinking that is hazardous, harmful, or otherwise consistent with alcohol use disorders” and found mental health distress also “significant”), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4736291/pdf/adm-10-46.pdf>.

31. *Id.* at 46–47.

32. *Id.* at 46 (highlighting “the need for greater resources for lawyer assistance programs, and also the expansion of available attorney-specific prevention and treatment interventions.”).

33. *Id.* at 48.

34. *Id.* at 51 (finding “significantly higher levels of depression, anxiety, and stress among those screening positive for problematic alcohol use”).

35. *Id.*

36. *Id.* at 50 (revealing mental health concerns generally decreased as both age and years in the field increased).

consumed, approximately one in three practicing attorneys under the age of 30 are problem drinkers.³⁷

- The study showed that lawyers experience alcohol use disorders at a far higher rate than other professional populations, such as doctors, as well as mental health distress that is more significant.³⁸

Law schools, if they truly care about the well-being and success of their students, must make a concerted effort to help their students become aware of the pervasiveness of substance abuse and mental health conditions suffered by law students and lawyers. The stress and demands of law practice will not erase substance abuse or mental health problems experienced by law students, but instead they will exacerbate those problems. Substance abuse plays a role in 40% to 70% of all disciplinary proceedings and malpractice actions against lawyers.³⁹ Addressing these issues as law students may help them avoid both professional and personal losses during law school and once they start practicing.

As mentioned above, the ABA published a thorough report on these issues that included a number of recommendations for law schools, some of which are discussed in this Article.⁴⁰ In addition, a number of states formed their own task forces and groups to figure out how to address these issues on a state-wide level.⁴¹ Part II of this Article provides a succinct and practical approach based partly on those efforts, as well as the experience of the author, to address the epidemic of substance abuse and mental health conditions at the law school level.

III. SOLUTIONS TO ADDRESS THE CRISIS

Law schools must take a multifaceted approach to address the crisis, including mandatory education, accessible and confidential outlets, and community support.

37. *Id.* at 51.

38. *Id.* Notably, the most common barriers for attorneys to seek help were fear of others finding out and general concerns about confidentiality. *Id.* at 50.

39. Martha Middleton, *Substance abuse and mental health issues are a growing problem for the legal profession, say experts*, ABA JOURNAL (Dec. 1, 2015, 1:30 AM), <https://perma.cc/N84Y-QMKQ>.

40. See Buchanan, *supra* note 11, at 10 (presenting “recommendations for [the] many stakeholders in the legal profession including the judiciary, regulators, legal employers, law schools, bar associations, lawyers’ professional liability carriers, and lawyer assistance programs”).

41. *The Path to Lawyer Well-being: Practical Recommendations for Positive Change, State Task Forces & Commissions*, *supra* note 12.

A. *Mandatory Education*

Entering 1Ls are often unaware of the incredible stress caused by law school, the Socratic method, and grading. Law students are perhaps even less aware that many of their classmates suffer from alcohol abuse, depression, and anxiety. Law schools must require education on the causes, prevalence, and treatments for mental health and substance abuse issues faced by law students.⁴² The education should include at least three hours of instruction during strategically advantageous times.⁴³ The first instance should occur in the spring of 1L year after students receive their grades.⁴⁴ Students often feel depressed and upset once they realize they did not finish in the top 10% of the class. With 100% of the class believing at the start of their 1L year that they will reach the top 10% after the first semester, clearly 90% will fail to achieve that goal. A lecture or panel discussion on the statistics of mental health and substance abuse (discussed *supra* in Part I) and candid talks by law students or graduates who overcame their first semester grades, as well as their mental health or substance abuse issues, can be very powerful and helpful.⁴⁵

The second education component should occur during the 2L year, which could happen during a Professional Responsibility class for many schools or during a stand-alone panel or lecture.⁴⁶ As the statistics show, drinking increases each year of law school as does the stress to maintain excellent grades while working as an intern or extern to obtain a job.⁴⁷ Finally, 3Ls should have mandatory education as graduation and the practice of law loom ahead, and that education should include the sobering statistics

42. See Buchanan, *supra* note 11.

43. See Law School Work Group Report of the Roundtable on Lawyer Well-Being (recommending three hours of education for law students on mental health and substance abuse issues before a law student would be certified to sit for the bar exam)(on file with author); E-mail from Bree Buchanan, Former Dir., Tex. Lawyers' Assistance Program, to author (July 10, 2019, 15:39 CST) (on file with author). Ohio is the only state that currently requires education on substance abuse before a student may sit for a bar exam—Ohio requires one hour of education on “substance abuse, including causes, prevention, detection, and treatment alternatives.” Sup. Ct. of Ohio, Sup. Ct. Rules for the Gov’t of the Bar of Ohio, Rule I, § 3(E)(2), *Application for Ohio Bar Examination; Updating Character and Fitness Information after the Examination* (2006), available at <http://www.supremecourt.ohio.gov/LegalResources/Rules/govbar/govbar.pdf>.

44. See Buchanan, *supra* note 11, at 39 (stating that law students are vulnerable after they receive their first semester grades and recommending programming at that time).

45. The author helped organize some of these talks at his law school.

46. See Buchanan, *supra* note 11, at 39 (“Mental health and substance use should play a more prominent role in courses on professional responsibility, legal ethics, or professionalism.”).

47. Organ, *supra* note 15, at 130.

regarding the well-being of practicing lawyers. Lawyer Assistance Programs (“LAPs”) provide excellent resources for speakers and material to assist with any or all of these three mandatory education sessions.⁴⁸

The education on these topics will likely help reduce the stigma of mental health and substance abuse issues because students will learn how widespread and dangerous these issues are in law school and the practice of law.⁴⁹ If a law school provides these lessons and panels on an optional basis, then they will be sorely disappointed. Many law students, because of the stigma, may avoid attending any optional lectures on these topics lest they are seen as suffering from those ailments themselves, perceiving them as a sign of weakness. Despite the free food provided, an optional event on wellness will often result in a minimal number of law students attending.

Furthermore, presentations from a LAP representative at 1L orientation can fall on deaf ears as most students are excited for the new challenge of law school and do not see themselves as the unfortunate individuals who will succumb to depression or alcohol abuse. Also, law schools send mixed messages by presenting a LAP speaker at 1L orientation who talks to the class about the drinking culture and alcohol abuse in law school and the legal profession, but then the law school hosts a happy hour for all the 1Ls (sometimes later that same day). Law schools must provide mandatory education on these topics and remain consistent with their messages and actions.

B. Accessible and Confidential Outlets

Law schools must provide accessible and confidential outlets for students to seek help.⁵⁰ LAPs provide an easy and confidential way for students to address their issues. Communications between law students and LAP representatives, who are licensed counselors and typically lawyers, remain confidential.⁵¹ LAPs also

48. See, e.g., *infra* note 64.

49. See Buchanan, *supra* note 11, at 13.

50. See *id.*

51. *Directory of Lawyer Assistance Programs*, ABA (Feb. 14, 2019),

<https://perma.cc/NAW2-DLCB> (“Lawyer Assistance Programs [LAPS] provide *confidential* services and support to judges, lawyers and law students who are facing substance use disorders or mental health issues.”) (emphasis added); see, e.g., TEXAS BAR, THE TEXAS LAWYERS’ ASSISTANCE PROGRAM CONFIDENTIALITY POLICY, *Providing confidential, discrete and respectful assistance since 1989*,

https://www.texasbar.com/AM/Template.cfm?Section=How_TLAP_Can_Help&Template=/CM/ContentDisplay.cfm&ContentID=30362 (providing “[p]ursuant to Section 467 [of the Texas Health and Safety Code], all communications with TLAP [Texas Lawyers’ Assistance Program] are confidential”); see 6 Tex. Health & Safety Code Ann. § 467.001 et seq. (1989) (discussing how the statute makes communications between a law student, lawyer, or judge

provide techniques to increase well-being.⁵²

Off-campus Alcoholics Anonymous (“AA”) and Lawyers Concerned for Lawyers (“LCL”) meetings also provide excellent methods of treatment and support for law students.⁵³ One LCL group in Texas allows law students to call in, which further provides a sense of confidentiality (and anonymity) for law students.⁵⁴ Some law schools offer counseling services on campus, but because of the stigma still surrounding mental health and substance abuse, students may be reluctant to take advantage of those opportunities.⁵⁵ Law schools must advertise, broadcast, and educate law students on LAPs, AA meetings, and LCL, as frequently as possible.⁵⁶

Peer mentoring groups, although advocated by the ABA task force, provide a worrisome solution because law students may be wary of trusting another law student with confidential information as gossip in law school runs rampant.⁵⁷ Depending on who occupies those positions as peer mentors, other students may not be sure if their conversations and information will be kept confidential or spread rapidly.

C. Community Support

Law students must feel supported by the law school’s administration, faculty, staff, and other students.⁵⁸ They must know that if they are facing these issues, there is help and others

with TLAP confidential).

52. See, e.g., Texas Lawyers’ Assistance Program, *Get Help with Substance Abuse and Mental Health: Wellness*, TLAP, <https://perma.cc/6GDH-SYHC> (last visited Jun. 27, 2019) (providing numerous resources and tips on well-being).

53. Texas Lawyers Concerned for Lawyers, *Texas LCL and Group Support Meetings*, https://www.texasbar.com/AM/Template.cfm?Section=Mental_Health1&Template=/CM/ContentDisplay.cfm&ContentID=15665 (last visited July 20, 2019).

54. See *id.*

55. See *id.*; Buchanan, *supra* note 11, at 39 (recommending on-site counselors); Ileana Velazquez, Counselor, St. Mary’s School of Law, (July 26, 2019), <https://law.stmarytx.edu/academics/faculty/ileana-velazquez/> (St. Mary’s Law School employs a full-time on-site counselor); Memorandum from Stephen Rispoli, Asst. Dean, Baylor Univ. School of Law, to Student Wellness and Mental Health file (June 1, 2018) (on file with author) (discussing how Baylor provides on-site counseling). Once the stigma subsides, then on-site counselors will become more valuable.

56. See Buchanan, *supra* note 11, at 37 (recommending that law schools promote and publicize wellness resources for students). Baylor Law School, for example, includes this type of information on bathroom stalls. See Memorandum from Stephen Rispoli, Asst. Dean, Baylor Univ. School of Law, to Student Wellness and Mental Health file (June 1, 2018) (on file with author).

57. See Buchanan, *supra* note 11, at 39 (stressing “[p]eer mentors should *not* have a direct reporting obligation to their law school dean of students”) (emphasis added).

58. See Buchanan, *supra* note 11, at 36–38 (“Faculty and administrators play an important role in forming a school’s culture and should be encouraged to share responsibility for student well-being.”).

will not look down on them for seeking help. Asking for help does not indicate a sign of weakness, but one of strength, when law students seek to face their issues head-on as the sixteenth President of the United States did.⁵⁹ Professors can look for absences as an initial sign of a larger issue.⁶⁰ Administration, faculty, and staff can direct law students to LAP and other service providers.⁶¹ Law students, though, may be reluctant to share information about these issues with a law school administrator or professor out of fear for their careers or bar admission.⁶² Moreover, oftentimes a classmate will be the first to learn (or spot) that a fellow classmate is battling these demons. Thus, law students should encourage their classmates to seek assistance, and they can also direct classmates to their state LAP or even make calls to LAPs on behalf of friends who may need assistance.⁶³ State LAPs, such as Texas', include self-assessments that law students can complete on their own to determine if they have a substance abuse or mental health issue.⁶⁴

IV. CONCLUSION

Law schools must make sure that law students understand they are not alone in suffering from mental health and substance abuse issues because many law students and lawyers do. Law schools must also make sure that law students know they are not alone in this fight, and law schools will do everything they can to direct, guide, and support law students who battle these issues.

59. See Shenk, *supra* note 9 and accompanying text.

60. See Buchanan, *supra* note 11, at 37.

61. See Buchanan, *supra* note 11, at 36–37.

62. Buchanan, *supra* note 11, at 13. (“Top concerns of law students in the Survey of Law Student Well Being were fear of jeopardizing their academic standing or admission to the practice of law. . . .”); Organ, *supra* note 15, at 154. (“The SLSWB confirms that one of the most significant obstacles to seeing a health professional for alcohol or drug or mental health issues is a fear of not being admitted to the bar, owing to the character-and-fitness component of bar applications.”).

63. See Buchanan, *supra* note 11, at 38 (recommending that law schools “empower students to help fellow students in need”).

64. Texas Lawyers' Assistance Program, *Get Help with Substance Abuse and Mental Health Issues: Substance Abuse*, TLAP, <https://www.tlaphelps.org/substance-abuse> (last visited Jun. 27, 2019) (including several self-assessments on substance abuse); Texas Lawyers' Assistance Program, *Get Help with Substance Abuse and Mental Health: Depression & Bipolar*, TLAP, <https://www.tlaphelps.org/depression-bipolar> (last visited Jun. 27, 2019) (providing a depression self-assessment); Texas Lawyers' Assistance Program, *Get Help with Substance Abuse and Mental Health: Stress & Anxiety*, TLAP, <https://www.tlaphelps.org/stress-anxiety> (last visited Jun. 27, 2019) (including an anxiety and stress self-assessment quiz).